

S. No. 2046

H. No. 4193

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fourteenth Congress

Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-eighth day
of July, two thousand eight.



[REPUBLIC ACT NO. 9513]

AN ACT PROMOTING THE DEVELOPMENT, UTILIZATION AND
COMMERCIALIZATION OF RENEWABLE ENERGY
RESOURCES AND FOR OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:*

CHAPTER I

TITLE AND DECLARATION OF POLICIES

SECTION 1. *Short Title.* – This Act shall be known as
the “Renewable Energy Act of 2008”. It shall hereinafter be
referred to as the “Act”.

SEC. 2. *Declaration of Policies.* – It is hereby declared
the policy of the State to:

(a) Accelerate the exploration and development of renewable energy resources such as, but not limited to, biomass, solar, wind, hydro, geothermal and ocean energy sources, including hybrid systems, to achieve energy self-reliance, through the adoption of sustainable energy development strategies to reduce the country's dependence on fossil fuels and thereby minimize the country's exposure to price fluctuations in the international markets, the effects of which spiral down to almost all sectors of the economy;

(b) Increase the utilization of renewable energy by institutionalizing the development of national and local capabilities in the use of renewable energy systems, and promoting its efficient and cost-effective commercial application by providing fiscal and nonfiscal incentives;

(c) Encourage the development and utilization of renewable energy resources as tools to effectively prevent or reduce harmful emissions and thereby balance the goals of economic growth and development with the protection of health and the environment; and

(d) Establish the necessary infrastructure and mechanism to carry out the mandates specified in this Act and other existing laws.

SEC. 3. *Scope.* – This Act shall establish the framework for the accelerated development and advancement of renewable energy resources, and the development of a strategic program to increase its utilization.

SEC. 4. *Definition of Terms.* – As used in this Act, the following terms are herein defined.

(a) “Biomass energy systems” refers to energy systems which use biomass resources to produce heat, steam, mechanical power or electricity through either thermochemical, biochemical or physico-chemical processes, or through such other technologies which shall comply with prescribed environmental standards pursuant to this Act.

(b) “Biomass resources” refers to non-fossilized, biodegradable organic material originating from naturally occurring or cultured plants, animals and micro-organisms, including agricultural products, by-products and residues such

as, but not limited to, biofuels except corn, soya beans and rice but including sugarcane and coconut, rice hulls, rice straws, coconut husks and shells, corn cobs, corn stovers, bagasse, biodegradable organic fractions of industrial and municipal wastes that can be used in bioconversion process and other processes, as well as gases and liquids recovered from the decomposition and/or extraction of non-fossilized and biodegradable organic materials.

(c) "Board of Investments (BOI)" refers to an attached agency of the Department of Trade and Industry created under Republic Act No. 5186; as amended.

(d) "Co-generation systems" refers to facilities which produce electrical and/or mechanical energy and forms of useful thermal energy such as heat or steam which are used for industrial, commercial heating or cooling purposes through the sequential use of energy.

(e) "Department of Energy (DOE)" refers to the government agency created pursuant to Republic Act No. 7638 whose functions are expanded in Republic Act No. 9136 and further expanded in this Act.

(f) "Department of Environment and Natural Resources (DENR)" refers to the government agency created pursuant to Executive Order No. 192.

(g) "Department of Finance (DOF)" refers to the government agency created pursuant to Executive Order No. 127, as amended.

(h) "Department of Science and Technology (DOST)" refers to the government agency created pursuant to Executive Order No. 128.

(i) "Department of Trade and Industry (DTI)" refers to the government agency created pursuant to Executive Order No. 133.

(j) "Distributed generation" refers to a system of small generation entities supplying directly to the distribution grid, any one of which shall not exceed one hundred kilowatts (100 kW) in capacity.

(k) "Distribution of Electricity" refers to the conveyance of electricity by a Distribution Utility through its distribution system pursuant to the provision of Republic Act No. 9136.

(l) "Distribution Utility (DU)" refers to any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with its franchise and Republic Act No. 9136.

(m) "Electric Power Industry Reform Act of 2001" or Republic Act No. 9136 refers to the law mandating the restructuring of the electric power sector and the privatization of the National Power Corporation (NPC).

(n) "Energy Regulatory Commission (ERC)" refers to the independent quasi-judicial regulatory agency created pursuant to Republic Act No. 9136.

(o) "Generation Company" refers to any person or entity authorized by the ERC to operate facilities used in the generation of electricity.

(p) "Generation Facility" refers to a facility for the production of electricity and/or thermal energy such as, but not limited to, steam, hot or cold water.

(q) "Geothermal energy" as used herein and in the context of this Act, shall be considered renewable and the provisions of this Act is therefore applicable thereto if geothermal energy, as a mineral resource, is produced through: (1) natural recharge, where the water is replenished by rainfall and the heat is continuously produced inside the earth; and/or (2) enhanced recharge, where hot water used in the geothermal process is re-injected into the ground to produce more steam as well as to provide additional recharge to the convection system.

(r) "Geothermal Energy Systems" refers to machines or other equipment that converts geothermal energy into useful power.

(s) "Geothermal Resources" refers to mineral resources, classified as renewable energy resource, in the form of: (i) all products of geothermal processes, embracing indigenous steam,

hot water, and hot brines; (ii) steam and other gases, hot water, and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (iii) heat or associated energy found in geothermal formations; and (iv) any by-product derived from them.

(t) "Government Share" refers to the amount due the National Government and local government units from the exploitation, development, and utilization of naturally-occurring renewable energy resources such as geothermal, wind, solar, ocean and hydro excluding biomass.

(u) "Green Energy Option" refers to the mechanism to empower end-users to choose renewable energy in meeting their energy requirements.

(v) "Grid" refers to the high voltage backbone system of interconnected transmission lines, substations, and related facilities, located in each of Luzon, Visayas, and Mindanao, or as may otherwise be determined by the ERC in accordance with Republic Act No. 9136.

(w) "Hybrid Systems" refers to any power or energy generation facility which makes use of two (2) or more types of technologies utilizing both conventional and/or renewable fuel sources, such as, but not limited to, integrated solar/wind systems, biomass/fossil fuel systems, hydro/fossil fuel systems, integrated solar/biomass systems, integrated wind/fossil fuel systems, with a minimum of ten (10) megawatts or ten percent (10%) of the annual energy output provided by the Renewable Energy (RE) component.

(x) "Hydroelectric Power Systems" or "Hydropower Systems" refers to water-based energy systems which produce electricity by utilizing the kinetic energy of falling or running water to turn a turbine generator.

(y) "Hydroelectric Power Development" or "Hydropower Development" refers to the construction and installation of a hydroelectric power-generating plant and its auxiliary facilities, such as diversion structure, headrace, penstock, substation, transmission, and machine shop, among others.

(z) "Hydroelectric Power Resources" or "Hydropower Resources" refers to water resources found technically feasible

for development of hydropower projects which include rivers, lakes, waterfalls, irrigation canals, springs, ponds, and other water bodies.

(aa) "Local government share" refers to the amount due the local government units from the exploitation, development and utilization of naturally-occurring renewable energy resources.

(bb) "Micro-scale Project" refers to an RE project with capacity not exceeding one hundred kilowatts (100 kW).

(cc) "Missionary Electrification" refers to the provision of basic electricity service in unviable areas with the aim of bringing the operations in these areas to viability levels.

(dd) "National government share" refers to the amount due the national government from the exploitation, development and utilization of naturally-occurring renewable energy resources.

(ee) "National Power Corporation (NPC)" refers to the government corporation created under Republic Act No. 6395, as amended by Republic Act No. 9136.

(ff) "National Transmission Corporation (TRANSCO)" refers to the corporation created pursuant to Republic Act No. 9136 responsible for the planning, construction, and centralized operation and maintenance of high voltage transmission facilities, including grid interconnection and ancillary services.

(gg) "Net-Metering" refers to a system, appropriate for distributed generation, in which a distribution grid user has a two-way connection to the grid and is only charged for his net electricity consumption and is credited for any overall contribution to the electricity grid.

(hh) "Non-power applications" refers to renewable energy systems or facilities that produce mechanical energy, combustible products such as methane gas, or forms of useful thermal energy such as heat or steam, that are not used for electricity generation, but for applications such as, but not limited to, industrial/commercial cooling, and fuel for cooking and transport.

(ii) "Ocean Energy Systems" refers to energy systems which convert ocean or tidal current, ocean thermal gradient or wave energy into electrical or mechanical energy.

(jj) "Off-Grid Systems" refers to electrical systems not connected to the wires and related facilities of the On-Grid Systems of the Philippines.

(kk) "On-Grid System" refers to electrical systems composed of interconnected transmission lines, distribution lines, substations, and related facilities for the purpose of conveyance of bulk power on the grid of the Philippines.

(ll) "Philippine Electricity Market Corporation (PEMC)" refers to the Corporation incorporated upon the initiative of the DOE composed of all Wholesale Electricity Spot Market (WESM) Members and whose Board of Directors will be the PEMC Board.

(mm) "Philippine National Oil Company (PNOC)" refers to the government agency created pursuant to Presidential Decree No. 334, as amended.

(nn) "Power applications" refers to renewable energy systems or facilities that produce electricity.

(oo) "Registered RE Developer" refers to a RE Developer duly registered with the DOE.

(pp) "Renewable Energy (Systems) Developers" or "RE Developers" refers to individual/s or a group of individuals formed in accordance with existing Philippine Laws engaged in the exploration, development and utilization of RE resources and actual operation of RE systems/facilities.

(qq) "Renewable Energy Market (REM)" refers to the market where the trading of the RE certificates equivalent to an amount of power generated from RE resources is made.

(rr) "Renewable Energy Policy Framework (REPF)" refers to the long-term policy developed by the DOE which identifies among others, the goals and targets for the development and utilization of renewable energy in the country.

(ss) “Renewable Portfolio Standards (RPS)” refer to a market-based policy that requires electricity suppliers to source an agreed portion of their energy supply from eligible RE resources.

(tt) “Renewable Energy Service (Operating) Contract (RE Contract)” refers to the service agreement between the Government, through the DOE, and RE Developer over a period in which the RE Developer has the exclusive right to a particular RE area for exploration and development. The RE Contract shall be divided into two (2) stages: the pre-development stage and the development/commercial stage. The preliminary assessment and feasibility study up to financial closing shall refer to the pre-development stage. The construction and installation of facilities up to operation phase shall refer to the development stage.

(uu) “Renewable Energy Resources (RE Resources)” refers to energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time. These include, among others, biomass, solar, wind, geothermal, ocean energy, and hydropower conforming with internationally accepted norms and standards on dams, and other emerging renewable energy technologies.

(vv) “Renewable Energy Systems (RE Systems)” refers to energy systems which convert RE resources into useful energy forms, like electrical, mechanical, etc.

(ww) “Rural Electrification” refers to the delivery of basic electricity services, consisting of power generation, sub-transmission, and/or extension of associated power delivery system that would bring about important social and economic benefits to the countryside.

(xx) “Solar Energy” refers to the energy derived from solar radiation that can be converted into useful thermal or electrical energy.

(yy) “Solar Energy Systems” refers to energy systems which convert solar energy into thermal or electrical energy.

(zz) “Small Power Utilities Group (SPUG)” refers to the functional unit of the NPC mandated under Republic Act No. 9136 to pursue missionary electrification function.

(aaa) “Supplier” refers to any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to the end-users.

(bbb) “Transmission of Electricity” refers to the conveyance of electric power through transmission lines as defined under Republic Act No. 9136 by TRANSCO or its buyer/concessionaire in accordance with its franchise and Republic Act No. 9136.

(ccc) “Wind Energy” refers to the energy that can be derived from wind that is converted into useful electrical or mechanical energy.

(ddd) “Wind Energy Systems” refers to the machines or other related equipment that convert wind energy into useful electrical or mechanical energy.

(eee) “Wholesale Electricity Spot Market (WESM)” refers to the wholesale electricity spot market created pursuant to Republic Act No. 9136.

CHAPTER II ORGANIZATION

SEC. 5. *Lead Agency.* – The DOE shall be the lead agency mandated to implement the provisions of this Act.

CHAPTER III ON-GRID RENEWABLE ENERGY DEVELOPMENT

SEC. 6. *Renewable Portfolio Standard (RPS).* – All stakeholders in the electric power industry shall contribute to the growth of the renewable energy industry of the country. Towards this end, the National Renewable Energy Board (NREB), created under Section 27 of this Act, shall set the minimum percentage of generation from eligible renewable energy resources and determine to which sector RPS shall be

imposed on a per grid basis within one (1) year from the effectivity of this Act.

SEC. 7. Feed-In Tariff System. – To accelerate the development of emerging renewable energy resources, a feed-in tariff system for electricity produced from wind, solar, ocean, run-of-river hydropower and biomass is hereby mandated. Towards this end, the ERC in consultation with the National Renewable Energy Board (NREB) created under Section 27 of this Act shall formulate and promulgate feed-in tariff system rules within one (1) year upon the effectivity of this Act which shall include, but not limited to, the following:

(a) Priority connections to the grid for electricity generated from emerging renewable energy resources such as wind, solar, ocean, run-of-river hydropower and biomass power plants within the territory of the Philippines;

(b) The priority purchase and transmission of, and payment for, such electricity by the grid system operators;

(c) Determine the fixed tariff to be paid to electricity produced from each type of emerging renewable energy and the mandated number of years for the application of these rates, which shall not be less than twelve (12) years;

(d) The feed-in tariff to be set shall be applied to the emerging renewable energy to be used in compliance with the renewable portfolio standard as provided for in this Act and in accordance with the RPS rules that will be established by the DOE.

SEC. 8. Renewable Energy Market (REM). – To facilitate compliance with Section 6 of this Act, the DOE shall establish the REM and shall direct PEMC to implement changes to the WESM Rules in order to incorporate the rules specific to the operation of the REM under the WESM.

The PEMC shall, under the supervision of the DOE, establish a Renewable Energy Registrar within one (1) year from the effectivity of this Act and shall issue, keep and verify RE Certificates corresponding to energy generated from eligible RE facilities. Such certificates will be used for compliance with the RPS. For this purpose, a transaction fee, equal to half of what PEMC currently charges regular WESM players, may be imposed by PEMC.

SEC. 9. *Green Energy Option.* – The DOE shall establish a Green Energy Option program which provides end-users the option to choose RE resources as their sources of energy. In consultation with the NREB, the DOE shall promulgate the appropriate implementing rules and regulations which are necessary, incidental or convenient to achieve the objectives set forth herein.

Upon the determination of the DOE of its technical viability and consistent with the requirements of the green energy option program, end-users may directly contract from RE facilities their energy requirements distributed through their respective distribution utilities.

Consistent herewith, TRANSCO or its successors-in-interest, DUs, PEMC and all relevant parties are hereby mandated to provide the mechanisms for the physical connection and commercial arrangements necessary to ensure the success of the Green Energy Option. The end-user who will enroll under the energy option program should be informed by way of its monthly electric bill, how much of its monthly energy consumption and generation charge is provided by RE facilities.

SEC. 10. *Net-metering for Renewable Energy.* – Subject to technical considerations and without discrimination and upon request by distribution end-users, the distribution utilities shall enter into net-metering agreements with qualified end-users who will be installing the RE system.

The ERC, in consultation with the NREB and the electric power industry participants, shall establish net-metering interconnection standards and pricing methodology and other commercial arrangements necessary to ensure success of the net-metering for renewable energy program within one (1) year upon the effectivity of this Act.

The distribution utility shall be entitled to any Renewable Energy Certificate resulting from net-metering arrangement with the qualified end-user who is using an RE resource to provide energy and the distribution utility shall be able to use this RE certificate in compliance with its obligations under RPS.

The DOE, ERC, TRANSCO or its successors-in-interest, DUs, PEMC and all relevant parties are hereby mandated to

provide the mechanisms for the physical connection and commercial arrangements necessary to ensure the success of the Net-metering for Renewable Energy program, consistent with the Grid and Distribution Codes.

SEC. 11. *Transmission and Distribution System Development.* – TRANSCO or its successors-in-interest or its buyer/concessionaire and all DUs, shall include the required connection facilities for RE-based power facilities in the Transmission and Distribution Development Plans: *Provided*, That such facilities are approved by the DOE. The connection facilities of RE power plants, including the extension of transmission and distribution lines, shall be subject only to ancillary services covering such connections.

CHAPTER IV

OFF-GRID RENEWABLE ENERGY DEVELOPMENT

SEC. 12. *Off-Grid Areas.* – Within one (1) year from the effectivity of this Act, NPC-SPUG or its successors-in-interest and/or qualified third parties in off-grid areas shall, in the performance of its mandate to provide missionary electrification, source a minimum percentage of its total annual generation upon recommendation of the NREB from available RE resources in the area concerned, as may be determined by the DOE.

As used in this Act, successors-in-interest refer to entities deemed technically and financially capable to serve/take over existing NPC-SPUG areas.

Eligible RE generation in off-grid and missionary areas shall be eligible for the provision of RE Certificates defined in Section 8 of this Act. In the event there are no viable RE resources in the off-grid and missionary areas, the relevant electricity supplier in the off-grid and missionary areas shall still be obligated under Section 6 of this Act.

CHAPTER V

GOVERNMENT SHARE

SEC. 13. *Government Share.* – The government share on existing and new RE development projects shall be equal to one percent (1%) of the gross income of RE resource

developers resulting from the sale of renewable energy produced and such other income incidental to and arising from the renewable energy generation, transmission, and sale of electric power except for indigenous geothermal energy, which shall be at one and a half percent (1.5%) of gross income.

To further promote the development of RE projects, the government hereby waives its share from the proceeds of micro-scale projects for communal purposes and non-commercial operations, which are not greater than one hundred kilowatts (100 kW).

CHAPTER VI ENVIRONMENTAL COMPLIANCE

SEC. 14. *Compliance with Environmental Regulations.* – All RE explorations, development, utilization, and RE systems operations shall be conducted in accordance with existing environmental regulations as prescribed by the DENR and/or any other concerned government agency.

CHAPTER VII GENERAL INCENTIVES

SEC. 15. *Incentives for Renewable Energy Projects and Activities.* – RE Developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:

(a) Income Tax Holiday (ITH) – For the first seven (7) years of its commercial operations, the duly registered RE developer shall be exempt from income taxes levied by the National Government.

Additional investments in the project shall be entitled to additional income tax exemption on the income attributable to the investment: *Provided*, That the discovery and development of new RE resource shall be treated as a new investment and shall therefore be entitled to a fresh package of incentives: *Provided, further*, That the entitlement period for additional

investments shall not be more than three (3) times the period of the initial availment of the ITH.

(b) Duty-free Importation of RE Machinery, Equipment and Materials – Within the first ten (10) years upon the issuance of a certification of an RE developer, the importation of machinery and equipment, and materials and parts thereof, including control and communication equipment, shall not be subject to tariff duties: *Provided, however,* That the said machinery, equipment, materials and parts are directly and actually needed and used exclusively in the RE facilities for transformation into energy and delivery of energy to the point of use and covered by shipping documents in the name of the duly registered operator to whom the shipment will be directly delivered by customs authorities: *Provided, further,* That endorsement of the DOE is obtained before the importation of such machinery, equipment, materials and parts is made.

Endorsement of the DOE must be secured before any sale, transfer or disposition of the imported capital equipment, machinery or spare parts is made: *Provided,* That if such sale, transfer or disposition is made within the ten (10)-year period from the date of importation, any of the following conditions must be present:

(i) If made to another RE developer enjoying tax and duty exemption on imported capital equipment;

(ii) If made to a non-RE developer, upon payment of any taxes and duties due on the net book value of the capital equipment to be sold;

(iii) Exportation of the used capital equipment, machinery, spare parts or source documents or those required for RE development; and

(iv) For reasons of proven technical obsolescence.

When the aforementioned sale, transfer or disposition is made under any of the conditions provided for in the foregoing paragraphs after ten (10) years from the date of importation, the sale, transfer or disposition shall no longer be subject to the payment of taxes and duties.

(c) Special Realty Tax Rates on Equipment and Machinery – Any law to the contrary notwithstanding, realty and other taxes on civil works, equipment, machinery, and other improvements of a registered RE Developer actually and exclusively used for RE facilities shall not exceed one and a half percent (1.5%) of their original cost less accumulated normal depreciation or net book value: *Provided*, That in case of an integrated resource development and generation facility as provided under Republic Act No. 9136, the real property tax shall only be imposed on the power plant.

(d) Net Operating Loss Carry-Over (NOLCO) – The NOLCO of the RE Developer during the first three (3) years from the start of commercial operation which had not been previously offset as deduction from gross income shall be carried over as a deduction from gross income for the next seven (7) consecutive taxable years immediately following the year of such loss: *Provided, however*, That operating loss resulting from the availment of incentives provided for in this Act shall not be entitled to NOLCO.

(e) Corporate Tax Rate – After seven (7) years of ITH, all RE Developers shall pay a corporate tax of ten percent (10%) on its net taxable income as defined in the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337: *Provided*, That the RE Developer shall pass on the savings to the end-users in the form of lower power rates.

(f) Accelerated Depreciation – If, and only if, an RE project fails to receive an ITH before full operation, it may apply for Accelerated Depreciation in its tax books and be taxed based on such: *Provided*, That if it applies for Accelerated Depreciation, the project or its expansions shall no longer be eligible for an ITH. Accelerated depreciation of plant, machinery, and equipment that are reasonably needed and actually used for the exploration, development and utilization of RE resources may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the Secretary of the Department of Finance and the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended. Any of the following methods of accelerated depreciation may be adopted:

- i) Declining balance method; and
- ii) Sum-of-the years digit method.

(g) Zero Percent Value-Added Tax Rate – The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.

All RE Developers shall be entitled to zero-rated value added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.

This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.

(h) Cash Incentive of Renewable Energy Developers for Missionary Electrification – A RE developer, established after the effectivity of this Act, shall be entitled to a cash generation-based incentive per kilowatt-hour rate generated, equivalent to fifty percent (50%) of the universal charge for power needed to service missionary areas where it operates the same, to be chargeable against the universal charge for missionary electrification.

(i) Tax Exemption of Carbon Credits – All proceeds from the sale of carbon emission credits shall be exempt from any and all taxes.

(j) Tax Credit on Domestic Capital Equipment and Services – A tax credit equivalent to one hundred percent (100%) of the value of the value-added tax and custom duties that would have been paid on the RE machinery, equipment, materials and parts had these items been imported shall be given to an RE operating contract holder who purchases machinery, equipment, materials, and parts from a domestic manufacturer for purposes set forth in this Act: *Provided*, That prior approval by the DOE was obtained by the local

manufacturer: *Provided, further,* That the acquisition of such machinery, equipment, materials, and parts shall be made within the validity of the RE operating contract.

SEC. 16. *Environmental Compliance Certificate (ECC).* – Notwithstanding Section 17 (b)(3)(iii) of Republic Act No. 7160, it would be sufficient for the renewable energy developer to secure the Environmental Compliance Certificate (ECC) from the corresponding regional office of the DENR.

SEC. 17. *Exemption from the Universal Charge.* – Power and electricity generated through the RES for the generator's own consumption and/or for free distribution in the off-grid areas shall be exempted from the payment of the universal charge provided for under Section 34 of Republic Act No. 9136.

SEC. 18. *Payment of Transmission Charges.* – A registered renewable energy developer producing power and electricity from an intermittent RE resource may opt to pay the transmission and wheeling charges of TRANSCO or its successors-in-interest on a per kilowatt-hour basis at a cost equivalent to the average per kilowatt-hour rate of all other electricity transmitted through the grid.

SEC. 19. *Hybrid and Cogeneration Systems.* – The tax exemptions and/or incentives provided for in Section 15 of this Act shall be availed of by registered RE Developer of hybrid and cogeneration systems utilizing both RE sources and conventional energy: *Provided, however,* That the tax exemptions and incentives shall apply only to the equipment, machinery and/or devices utilizing RE resources.

SEC. 20. *Intermittent RE Resources.* – TRANSCO or its successors-in-interest, in consultation with stakeholders, shall determine the maximum penetration limit of the Intermittent RE-based power plants to the Grid, through technical and economic analysis. Qualified and registered RE generating units with intermittent RE resources shall be considered “must dispatch” based on available energy and shall enjoy the benefit of priority dispatch. All provisions under the WESM Rules, Distribution and Grid Codes which do not allow “must dispatch” status for intermittent RE resources shall be deemed amended or modified. The PEMC and TRANSCO or its successors-in-interest shall implement technical mitigation

and improvements in the system in order to ensure safety and reliability of electricity transmission.

As used in this Act, RE generating unit with intermittent RE resources refers to a RE generating unit or group of units connected to a common connection point whose RE resource is location-specific, naturally difficult to precisely predict the availability of RE resource thereby making the energy generated variable, unpredictable and irregular and the availability of the resource inherently uncontrollable, which include plants utilizing wind, solar, run-of-river hydro or ocean energy.

SEC. 21. *Incentives for RE Commercialization.* – All manufacturers, fabricators and suppliers of locally-produced RE equipment and components duly recognized and accredited by the DOE, in consultation with the DOST, the DOF and the DTI, shall, upon registration with the BOI, be entitled to the privileges set forth under this section.

Consistent with Article 7, item (20) of Executive Order No. 226, the registration with the BOI, as provided for in Section 15 and Section 21 of this Act, shall be carried out through an agreement and an administrative arrangement between the BOI and the DOE, with the end-view of facilitating the registration of qualified RE facilities based on the implementing rules and regulations that will be developed by the DOE. It is further mandated that the applications for registration will be positively acted upon by the BOI on the basis of the accreditation issued by the DOE.

The Renewable Energy Sector is hereby declared a priority investment sector that will regularly form part of the country's Investment Priority Plan, unless declared otherwise by law. As such, all entities duly accredited by the DOE under this Act shall be entitled to all the incentives provided herein.

(a) *Tax and Duty-free Importation of Components, Parts and Materials* – All shipments necessary for the manufacture and/or fabrication of RE equipment and components shall be exempted from importation tariff and duties and value-added tax (VAT): *Provided, however,* That the said components, parts and materials are: (i) not manufactured domestically in reasonable quantity and quality at competitive prices; (ii) directly and actually needed and shall be used exclusively in

the manufacture/fabrication of RE equipment; and (iii) covered by shipping documents in the name of the duly registered manufacturer/fabricator to whom the shipment will be directly delivered by customs authorities: *Provided, further,* That prior approval of the DOE was obtained before the importation of such components, parts and materials.

(b) Tax Credit on Domestic Capital Components, Parts and Materials – A tax credit equivalent to one hundred percent (100%) of the amount of the value-added tax (VAT) and custom duties that would have been paid on the components, parts and materials had these items been imported shall be given to an RE equipment manufacturer, fabricator, and supplier duly recognized and accredited by the DOE who purchases RE components, parts and materials from a domestic manufacturer: *Provided,* That such components, and parts are directly needed and shall be used exclusively by the RE manufacturer, fabricator and supplier for the manufacture, fabrication and sale of the RE equipment: *Provided, further,* That prior approval by the DOE was obtained by the local manufacturer.

(c) Income Tax Holiday and Exemption – For seven (7) years starting from the date of recognition/accreditation, an RE manufacturer, fabricator and supplier of RE equipment shall be fully exempt from income taxes levied by the National Government on net income derived only from the sale of RE equipment, machinery, parts and services.

(d) Zero-rated Value-Added Tax Transactions – All manufacturers, fabricators and suppliers of locally produced renewable energy equipment shall be subject to zero-rated value-added tax on its transactions with local suppliers of goods, properties and services.

SEC. 22. *Incentives for Farmers Engaged in the Plantation of Biomass Resources.* – For a period of ten (10) years after the effectivity of this Act, all individuals and entities engaged in the plantation of crops and trees used as biomass resources such as, but not limited to, jatropha, coconut, and sugarcane, as certified by the Department of Energy, shall be entitled to duty-free importation and be exempted from value-added tax (VAT) on all types of agricultural inputs, equipment and machinery such as, but not limited to, fertilizer, insecticide, pesticide, tractor, trailers,

trucks, farm implements and machinery, harvesters, threshers, hybrid seeds, genetic materials, sprayers, packaging machinery and materials, bulkhandling facilities, such as conveyors and mini-loaders, weighing scales, harvesting equipment, and spare parts of all agricultural equipment.

SEC. 23. *Tax Rebate for Purchase of RE Components.* – To encourage the adoption of RE technologies, the DOF, in consultation with the DOST, the DOE, and the DTI, shall provide rebates for all or part of the tax paid for the purchase of RE equipment for residential, industrial, or community use. The DOF shall also prescribe the appropriate period for granting the tax rebates.

SEC. 24. *Period of Grant of Fiscal Incentives.* – The fiscal incentives granted under Section 15 of this Act shall apply to all RE capacities upon the effectivity of this Act. The NREB, in coordination with the DOE, shall submit a yearly report on the implementation of this Act to the Philippine Congress, through the Joint Congressional Power Commission, every January of each year following the period in review, indicating among others, the progress of RE development in the country and the benefits and impact generated by the development and utilization of its renewable energy resources in the context of its energy security and climate change imperatives. This shall serve as basis for the Joint Congressional Power Commission's review of the incentives as provided for in this Act towards ensuring the full development of the country's RE capacities under a rationalized market and incentives scheme.

SEC. 25. *Registration of RE Developers and Local Manufacturers, Fabricators and Suppliers of Locally-Produced Renewable Energy Equipment.* – RE Developers and local manufacturers, fabricators and suppliers of locally-produced renewable energy equipment shall register with the DOE, through the Renewable Energy Management Bureau. Upon registration, a certification shall be issued to each RE Developer and local manufacturer, fabricator and supplier of locally-produced renewable energy equipment to serve as the basis of their entitlement to incentives provided under Chapter VII of this Act.

SEC. 26. *Certification from the Department of Energy (DOE).* – All certifications required to qualify RE developers

to avail of the incentives provided for under this Act shall be issued by the DOE through the Renewable Energy Management Bureau.

The DOE, through the Renewable Energy Management Bureau shall issue said certification fifteen (15) days upon request of the renewable energy developer or manufacturer, fabricator or supplier: *Provided*, That the certification issued by the DOE shall be without prejudice to any further requirements that may be imposed by the concerned agencies of the government charged with the administration of the fiscal incentives abovementioned.

CHAPTER VIII

GENERAL PROVISIONS

SEC. 27. *Creation of the National Renewable Energy Board (NREB).* – The NREB is hereby created. It shall be composed of a Chairman and one (1) representative each from the following agencies: DOE, DTI, DOF, DENR, NPC, TRANSCO or its successors-in-interest, PNOC and PEMC who shall be designated by their respective secretaries on a permanent basis; and one (1) representative each from the following sectors: RE Developers, Government Financial Institutions (GFIs), private distribution utilities, electric cooperatives, electricity suppliers and nongovernmental organizations, duly endorsed by their respective industry associations and all to be appointed by the President of the Republic of the Philippines.

The Chairman shall, within one (1) month from the effectivity of this Act, convene the NREB.

The NREB shall be assisted by a Technical Secretariat from the Renewable Energy Management Bureau of the DOE, created under Section 32 hereof, and shall directly report to the Office of the Secretary or the Undersecretary of the Department, as the case may be, on matters pertaining to the activities of the NREB. The number of staff of the Technical Secretariat and the creation of corresponding positions necessary to complement and/or augment the existing plantilla of the Renewable Energy Management Bureau shall be determined by the Board, subject to approval by the Department of Budget and Management (DBM) and to existing civil service rules and regulations.

The NREB shall have the following powers and functions:

(a) Evaluate and recommend to the DOE the mandated RPS and minimum RE generation capacities in off-grid areas, as it deems appropriate;

(b) Recommend specific actions to facilitate the implementation of the National Renewable Energy Program (NREP) to be executed by the DOE and other appropriate agencies of government and to ensure that there shall be no overlapping and redundant functions within the national government departments and agencies concerned;

(c) Monitor and review the implementation of the NREP, including compliance with the RPS and minimum RE generation capacities in off-grid areas;

(d) Oversee and monitor the utilization of the Renewable Energy Trust Fund created pursuant to Section 28 of this Act and administered by the DOE; and

(e) Perform such other functions, as may be necessary, to attain the objectives of this Act.

SEC. 28. *Renewable Energy Trust Fund (RETF)*. – A Renewable Energy Trust Fund is hereby established to enhance the development and greater utilization of renewable energy. It shall be administered by the DOE as a special account in any of the GFIs. The RETF shall be exclusively used to:

(a) Finance the research, development, demonstration, and promotion of the widespread and productive use of RE systems for power and non-power applications, as well as to provide funding for research and development institutions engaged in renewable energy studies undertaken jointly through public-private sector partnership, including provision for scholarship and fellowship for energy studies;

(b) Support the development and operation of new RE resources to improve their competitiveness in the market: *Provided*, That the grant thereof shall be done through a competitive and transparent manner;

(c) Conduct nationwide resource and market assessment studies for the power and non-power applications of renewable energy systems;

(d) Propagate RE knowledge by accrediting, tapping, training, and providing benefits to institutions, entities and organizations which can extend the promotion and dissemination of RE benefits to the national and local levels; and

(e) Fund such other activities necessary or incidental to the attainment of the objectives of this Act.

Use of the fund may be through grants, loans, equity investments, loan guarantees, insurance, counterpart fund or such other financial arrangements necessary for the attainment of the objectives of this Act: *Provided*, That the use or allocation thereof shall, as far as practicable, be done through a competitive and transparent manner.

The RETF shall be funded from:

(a) Proceeds from the emission fees collected from all generating facilities consistent with Republic Act No. 8749 or the Philippine Clean Air Act;

(b) One and a half percent (1.5%) of the net annual income of the Philippine Charity Sweepstakes Office;

(c) One and a half percent (1.5%) of the net annual income of the Philippine Amusement and Gaming Corporation;

(d) One and a half percent (1.5%) of the net annual dividends remitted to the National Treasury of the Philippine National Oil Company and its subsidiaries;

(e) Contributions, grants and donations: *Provided*, That all contributions, grants and donations made to the RETF shall be tax deductible subject to the provisions of the National Internal Revenue Code. Towards this end, the Bureau of Internal Revenue (BIR) shall assist the DOE in formulating the rules and regulations to implement this provision;

(f) One and a half percent (1.5%) of the proceeds of the Government share collected from the development and use of indigenous non-renewable energy resources;

(g) Any revenue generated from the utilization of the RETF; and

(h) Proceeds from the fines and penalties imposed under this Act.

SEC. 29. *Financial Assistance Program.* – Government financial institutions such as the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP), Phil-Exim Bank and other government financial institutions shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, provide preferential financial packages for the development, utilization and commercialization of RE projects as duly recommended and endorsed by the DOE.

SEC. 30. *Adoption of Waste-To-Energy Technologies.* – The DOE shall, where practicable, encourage the adoption of waste-to-energy facilities such as, but not limited to, biogas systems. The DOE shall, in coordination with the DENR, ensure compliance with this provision.

As used in this Act, waste-to-energy technologies shall refer to systems which convert biodegradable materials such as, but not limited to, animal manure or agricultural waste, into useful energy through processes such as anaerobic digestion, fermentation and gasification, among others, subject to the provisions and intent of Republic Act No. 8749 (Clean Air Act of 1999) and Republic Act No. 9003 (Ecological Solid Waste Management Act of 2000).

SEC. 31. *Incentives for RE Host Communities/LGUs.* – Eighty percent (80%) of the share from royalty and/or government share of RE host communities/LGUs from RE projects and activities shall be used directly to subsidize the electricity consumption of end-users in the RE host communities/LGUs whose monthly consumption do not exceed one hundred kilowatt hours (100 kWh). The subsidy may be in the form of rebates, refunds and/or any other form as may be determined by the DOE, the DOF and the ERC, in coordination with the NREB.

The DOE, the DOF and the ERC, in coordination with the NREB and in consultation with the distribution utilities, shall promulgate the mechanisms to implement this provision within six (6) months from the effectivity of this Act.

SEC. 32. *Creation of the Renewable Energy Management Bureau.* – For the purpose of implementing the provisions of this Act, a Renewable Energy Management Bureau (REMB) under the DOE is hereby established, and the existing Renewable Energy Management Division of the Energy Utilization Management Bureau of the DOE, whose plantilla shall form the nucleus of REMB, is hereby dissolved. The organizational structure and staffing complement of the REMB shall be determined by the Secretary of the DOE, in consultation with the DBM, in accordance with existing civil service rules and regulations. The budgetary requirements necessary for the creation of the REMB shall be taken from the current appropriations of the DOE. Thereafter, the funding for the REMB shall be included in the annual General Appropriations Act.

The REMB shall have the following powers and functions:

(a) Implement policies, plans and programs related to the accelerated development, transformation, utilization and commercialization of renewable energy resources and technologies;

(b) Develop and maintain a centralized, comprehensive and unified data and information base on renewable energy resources to ensure the efficient evaluation, analysis, and dissemination of data and information on renewable energy resources, development, utilization, demand and technology application;

(c) Promote the commercialization/application of renewable energy resources including new and emerging technologies for efficient and economical transformation, conversion, processing, marketing and distribution to end users;

(d) Conduct technical research, socioeconomic and environmental impact studies of renewable energy projects for the development of sustainable renewable energy systems;

(e) Supervise and monitor activities of government and private companies and entities on renewable energy resources

development and utilization to ensure compliance with existing rules, regulations, guidelines and standards;

(f) Provide information, consultation and technical training and advisory services to developers, practitioners and entities involved in renewable energy technology and develop renewable energy technology development strategies; and

(g) Perform other functions that may be necessary for the effective implementation of this Act and the accelerated development and utilization of the renewable energy resources in the country.

CHAPTER IX FINAL PROVISIONS

SEC. 33. *Implementing Rules and Regulations (IRR).* – Within six (6) months from the effectivity of this Act, the DOE shall, in consultation with the Senate and House of Representatives Committees on Energy, relevant government agencies and RE stakeholders, promulgate the IRR of this Act.

SEC. 34. *Congressional Oversight.* – Upon the effectivity of this Act, the Joint Congressional Power Commission created under Section 62 of Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001” shall exercise oversight powers over the implementation of this Act.

SEC. 35. *Prohibited Acts.* – The following acts shall be prohibited:

- (a) Noncompliance or violation of the RPS rules;
- (b) Willful refusal to undertake net metering arrangements with qualified distribution grid users;
- (c) Falsification or tampering of public documents or official records to avail of the fiscal and non-fiscal incentives provided under this Act;
- (d) Failure and willful refusal to issue the single certificate referred to in Section 26 of this Act; and
- (e) Noncompliance with the established guidelines that the DOE will adopt for the implementation of this Act.

SEC. 36. *Penalty Clause.* – Any person who willfully commits any of the prohibited acts enumerated under this Act, shall be imposed with the penalties provided herein. Any person, who willfully aids or abets the commission of a crime prohibited herein or who causes the commission of any such act by another, shall be liable in the same manner as the principal.

In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, chief operating officer, chief executive officer, directors or officers responsible for the violation.

The commission of any prohibited acts provided for under Section 35, upon conviction thereof, shall suffer the penalty of imprisonment of one (1) year to five (5) years, or a fine ranging from a minimum of One hundred thousand pesos (₱100,000.00) to One hundred million pesos (₱100,000,000.00), or twice the amount of damages caused or costs avoided for noncompliance, whichever is higher, or both, upon the discretion of the court.

The DOE is further empowered to impose administrative fines and penalties for any violation of the provisions of this Act, its IRR and other issuances relative to this Act.

This is without prejudice to the penalties provided for under existing environmental regulations prescribed by the DENR and/or any other concerned government agency.

SEC. 37. *Appropriations.* – Such sums as may be necessary for the initial implementation of this Act shall be taken from the current appropriations of the DOE. Thereafter, the fund necessary to carry out the provisions of this Act shall be included in the annual General Appropriations Act.

SEC. 38. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

SEC. 39. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SEC. 36. *Penalty Clause.* – Any person who willfully commits any of the prohibited acts enumerated under this Act, shall be imposed with the penalties provided herein. Any person, who willfully aids or abets the commission of a crime prohibited herein or who causes the commission of any such act by another, shall be liable in the same manner as the principal.

In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, chief operating officer, chief executive officer, directors or officers responsible for the violation.

The commission of any prohibited acts provided for under Section 35, upon conviction thereof, shall suffer the penalty of imprisonment of one (1) year to five (5) years, or a fine ranging from a minimum of One hundred thousand pesos (P100,000.00) to One hundred million pesos (P100,000,000.00), or twice the amount of damages caused or costs avoided for noncompliance, whichever is higher, or both, upon the discretion of the court.

The DOE is further empowered to impose administrative fines and penalties for any violation of the provisions of this Act, its IRR and other issuances relative to this Act.

This is without prejudice to the penalties provided for under existing environmental regulations prescribed by the DENR and/or any other concerned government agency.

SEC. 37. *Appropriations.* – Such sums as may be necessary for the initial implementation of this Act shall be taken from the current appropriations of the DOE. Thereafter, the fund necessary to carry out the provisions of this Act shall be included in the annual General Appropriations Act.

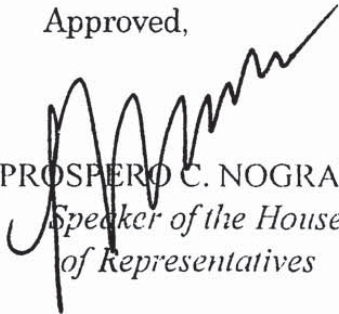
SEC. 38. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

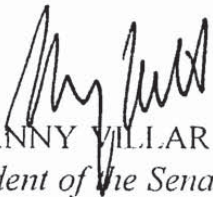
SEC. 39. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

Consistent with the foregoing paragraph and Section 13 of this Act, Section 1 of Presidential Decree No. 1442 or the Geothermal Resources Exploration and Development Act, insofar as the exploration of geothermal resources by the government, and Section 10(1) of Republic Act No. 7156, otherwise known as the "Mini-Hydro Electric Power Incentive Act", insofar as the special privilege tax rate of two percent (2%) are hereby repealed, modified or amended accordingly.


SEC. 40. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.


Approved,


PROSPERO C. NOGRALES
*Speaker of the House
of Representatives*



MANNY VILLAR
President of the Senate

This Act which is a consolidation of Senate Bill No. 2046 and House Bill No. 4193 was finally passed by the Senate and the House of Representatives on October 8, 2008.


MARILYN B. BARUA-YAP
*Secretary General
House of Representatives*


EMMA LIRIO-REYES
Secretary of the Senate

Approved: **DEC 16 2008**


GLORIA MACAPAGAL-ARROYO
President of the Philippines

O

